

P/2778-63

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

Guolin Xu et al.

Date: August 21, 2006

Serial No.: 10/535,334

Int'l. Appln. No.: PCT/SG03/00261

Int'l. Filing Date: 10 November 2003

For: METHOD AND SYSTEM FOR CELL AND/OR NUCLEIC ACID  
MOLECULES ISOLATION**VIA FACSIMILE (571 273-0459)**Mail Stop PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**ATTN:** Office of PCT Legal Administration**RENEWED PETITION UNDER 37 C.F.R. 1.47(a)**

Sir:

In response to the Notice Of Missing Requirements under 35 U.S.C. §371, mailed September 23, 2005 with regard to the above-identified application, applicants' representative submitted, on March 21, 2006 (via facsimile) a "Response to Notification of Missing Requirements" which included, inter alia, an inventors' declaration executed by each of the named co-inventors of this application, except Dennis L. Polla, as well as a Petition Under 37 C.F.R. §1.46(a) with supporting declarations and exhibits relating to the missing signature of co-inventor Polla.

A Decision On Petition Under 37 C.F.R. 1.47(a) was mailed by the Office on May 19, 2006. A copy of that Decision is attached hereto. According to the Decision, applicants' Petition Under 37 C.F.R. 1.47(a) was dismissed without prejudice. The Decision stated that, due to the fact that applicants submitted a compilation of a number of declarations executed by all of the available joint inventors, instead of submitting these declarations as individual declarations, the requirement for submission of an oath or declaration executed by the other inventors on behalf of themselves and the non-signing inventor was not properly fulfilled. The decision also stated that applicants' petition papers did not provide the required evidence that the complete application papers and a request for signature were sent to the last known address of the inventor.

Accordingly, therefore, submitted herewith as Attachment 1 are nine (9) separate declarations. Eight of these declarations are executed by one of the named co-inventors of this case. The ninth such declaration, i.e., of Dennis L. Polla, is unsigned. This submission is thus

believed to meet the requirement under MPEP §201.03 (II) (B) for the submission of individual declarations.

With regard to the second requirement noted above, i.e. that of demonstrating (with documentary evidence) that the complete application papers and a request for signature have been delivered to the non-signing inventor at his last known address, Attachment 2 submitted herewith is a Supplementary Declaration of Winnie Chua in Support of Petition Under 37 C.F.R. 1.47(a) which provides the required showing, wherein such showing is completely supported by documentary evidence provided as Exhibits A-F submitted with the declaration. The evidence included in the body of the declaration, and in the accompany exhibits is believed to meet all of the requirements under MPEP §409.03(d).

Pursuant to the submissions of Attachments 1 and 2 (with Exhibits A-F), the granting of applicants' petition under 37 C.F.R. 1.47(a), originally filed on March 21, 2006, is respectfully requested.

The Decision mailed on May 19, 2006 notes that applicants have already submitted the required petition fee. However, in the event the actual fee is greater than the payment submitted or is inadvertently not enclosed or if any additional fee during the prosecution of this application is not paid, the Patent Office is authorized to charge the underpayment to Deposit Account #15-0700.

If this communication is filed after the time period had elapsed and no separate Petition is enclosed, the Commissioner of Patents and Trademarks is petitioned, under 37 C.F.R. §1.136(a), to extend the time for filing a response by the number of months which will avoid abandonment under 37 C.F.R. §1.135. The fee under 37 C.F.R. § 1.17 should be charged to our Deposit Account No. 15-0700.

I hereby certify that this correspondence is being transmitted by Facsimile to (571) 273-8300 addressed to: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, ATTN: Office of PCT Legal Administration on the date indicated below.

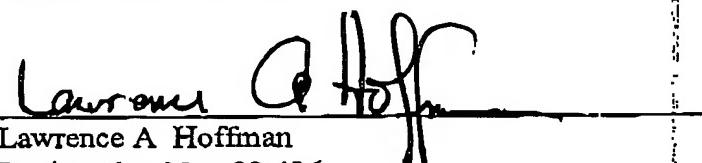
\_\_\_\_\_  
Lawrence A. Hoffman  
Name of applicant, assignee or  
Registered Representative

Lawrence A. Hoffman  
Signature

\_\_\_\_\_  
August 21, 2006  
Date of Signature

MAF:LAH:jl

Respectfully submitted,

  
\_\_\_\_\_  
Lawrence A. Hoffman  
Registration No.: 22,436  
OSTROLENK, FABER, GERB & SOFFEN, LLP  
1180 Avenue of the Americas  
New York, New York 10036-8403  
Telephone: (212) 382-0700



19 MAY 2006

## UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
 United States Patent and Trademark Office  
 P.O. Box 1450  
 Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

OSTROLENK FABER GERB & SOFFEN  
 1180 Avenue Of The Americas  
 New York, NY 10036-8403

## In re Application of:

XU, Guolin, et al.

U.S. Application No.: 10/535,334

PCT No.: PCT/SG2003/000261

International Filing Date: 10 November 2003

Priority Date: 18 November 2002

Attorney's Docket No.: P/2778-63

For: METHOD AND SYSTEM FOR CELL  
 AND/OR NUCLEIC ACID  
 MOLECULES ISOLATION

DECISION ON PETITION UNDER	
37 CFR 1.47(a)	
P/2778-63	
14 JULY - 2006	
PCT Draft	
PATENTS ORDERED Am	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a)" filed 21 March 2006. Applicant has submitted the required petition fee.

BACKGROUND

On 10 November 2003, applicants filed international application PCT/SG2003/000261. The application claimed a priority date of 18 November 2002 and designated the United States. On 03 June 2004, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 18 May 2005.

On 18 May 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 23 September 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date was required.

On 21 March 2006, applicants filed a response to the Notification Of Missing Requirements (with required extension fee) that included the required surcharge, a partially executed declaration document, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of inventor Dennis Lee POLLA, whom applicants argue has refused to execute the application.

MAY 25 2006

Application No. 10/535,334

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## DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the nonsigning inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the nonsigning inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Here, applicants have filed the required petition fee, and the petition expressly states the last known address of the nonsigning inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Applicants here have filed an eight-page declaration executed by eight of the nine inventors and containing an unsigned signature block for the nonsigning inventor, Dennis Lee POLLA. However, this eight-page declaration appears to be a compilation of a number of different copies of a three-page declaration; the compilation is evident from the fact that the declaration document includes two copies of page 1, four copies of page 2, and two copies of page 3. The declaration is therefore not acceptable under 37 CFR 1.497 (see MPEP § 201.03(II)(B): "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration."). Item (3) is therefore not satisfied.

Regarding item (4), MPEP section 409.03(d) states that "[a] copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also states the following:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Here, applicants provided a statement of facts from Jacqueline WONG, with supporting documents, which includes an email from the nonsigning inventor dated 20 August 2005 in which the inventor states that he would be happy to sign the documents if a copy of these materials, as well as a copy of the US Application, was mailed to him at his U.S. permanent residence. Applicants have also provided a statement from Winnie CHU, with supporting documents, which describes the efforts made to obtain the inventor's signature after receipt of

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the 20 August 2005 email. These subsequent efforts involve additional email communications to the inventor, including an email to which a copy of the application was attached. However, applicants have provided no evidence that a copy of the complete application papers, with a request for signature, was sent to the last known address of the inventor, as required by the MPEP and as specifically requested by the inventor in his 20 August 2005 email.

Before item (4) can be considered satisfied, applicants must provide the required firsthand evidence (with documentary support) demonstrating that the complete application papers and a request for signature have been delivered to the nonsigning inventor at his last known address, and that the inventor has refused to execute the application papers.

### CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the materials required to satisfy items (3) and (4) of a grantable petition, as discussed above. No additional petition fee is required.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Richard M. Ross  
Attorney Advisor  
Office of PCT Legal Administration  
Telephone: (571) 272-3296  
Facsimile: (571) 273-0459

## ATTACHMENT 1

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF THIRD JOINT INVENTOR, IF ANY Yuan Hong YU	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country) Singapore	COUNTRY OF CITIZENSHIP Malaysia	
POST OFFICE ADDRESS Blk 138 Bishan St 12 #06-456, Singapore 570138		
FULL NAME OF FOURTH JOINT INVENTOR, IF ANY Yuanzhi LAO	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country)	COUNTRY OF CITIZENSHIP China	
POST OFFICE ADDRESS		
FULL NAME OF FIFTH JOINT INVENTOR, IF ANY Chunyang ZHANG	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country) Singapore	COUNTRY OF CITIZENSHIP China	
POST OFFICE ADDRESS 134B West Coast Way, Singapore 127064		
FULL NAME OF SIXTH JOINT INVENTOR, IF ANY Meng Hui KWAN	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country) Singapore	COUNTRY OF CITIZENSHIP Singapore	
POST OFFICE ADDRESS 32 Eng Kong Garden, Singapore 599248		

CONTINUED ON PAGE 3

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF THIRD JOINT INVENTOR, IF ANY Lin Kiat SAW	INVENTOR'S SIGNATURE <i>Lin Kiat SAW</i>	DATE 25 <sup>th</sup> Aug '05
RESIDENCE (City and either State or Foreign Country) Singapore	COUNTRY OF CITIZENSHIP Malaysia	
POST OFFICE ADDRESS B1K 652C Jurong West Street 61, #08-410, Singapore 643652		
FULL NAME OF FOURTH JOINT INVENTOR, IF ANY Dor Ngai TING	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country) Singapore	COUNTRY OF CITIZENSHIP Malaysia	
POST OFFICE ADDRESS 39 Marine Parade Road #15-01 Parkway View, Singapore 449265		
FULL NAME OF FIFTH JOINT INVENTOR, IF ANY Dennis Lee POLLA	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country) United States of America	COUNTRY OF CITIZENSHIP United States of America	
POST OFFICE ADDRESS 2830 Hillescourte S., Roseville, Minnesota 55113, United States of America		
FULL NAME OF SIXTH JOINT INVENTOR, IF ANY	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country)	COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS		

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**UNITED STATES OF AMERICA  
COMBINED DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION**

ORGS FILE NO.  
P/2778-63

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name; that I verify which is claimed and for which a patent is sought on the invention entitled:

**Method and System for Cell and/or Nucleic Acid Molecules Isolation**

The specification of which is attached hereto, unless the following box is checked:

was filed on 18 May 2005 as United States patent Application Number or PCT International patent application number \_\_\_\_\_ and was conceded on \_\_\_\_\_ (if any).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information known to be material to patentability in accordance with Title 37, Code of Federal Regulations, 1.56.

I hereby claim priority benefits under Title 35, United States Code '119 of any foreign application(s) for patent or Inventor's certificate or United States provisional application(s) listed below and have also identified below any foreign application for patent or Inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign or Provisional Application(s)

COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 35 U.S.C. 119
..			YES <input type="checkbox"/> NO <input type="checkbox"/>
..			YES <input type="checkbox"/> NO <input type="checkbox"/>
..			YES <input type="checkbox"/> NO <input type="checkbox"/>

I hereby claim the benefit under Title 35, United States Code, '120 of any United States application(s) listed below and, tosofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, '112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, '1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

UNITED STATES APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

I hereby appoint customer no. 2352 OSTROLENK, FABER, GERB & SOFFEN, LLP, and the members of the firm, Samuel H. Weiner - Reg. No. 18,510; Robert C. Faber - Reg. No. 24,322; Max Moskowitz - Reg. No. 30,576; James A. Binder - Reg. No. 30,173; William O. Gray, III - Reg. No. 30,944; Louis C. Dujnoch - Reg. No. 30,623, and Douglas A. Mito - Reg. No. 31,643, as attorneys with full power of substitution and revocation to prosecute this application, to transact all business in the Patent & Trademark Office connected therewith and to receive all correspondence.

SEND CORRESPONDENCE TO: OSTROLENK, FABER, GERB & SOFFEN, LLP  
1180 AVENUE OF THE AMERICAS  
NEW YORK NEW YORK 10036-3403  
CUSTOMER NO. 2352  
DIRECT TELEPHONE CALLS TO:  
(212) 382-0700

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements made in my knowledge that willful false statements and beliefs so made are punishable by fine or imprisonment or both. Under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF SOLE OR FIRST INVENTOR Guolin XU	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country) Singapore	COUNTRY OF CITIZENSHIP China	
POST OFFICE ADDRESS Blk 436 Woodlands St 41 #12-398, Singapore 730436		
FULL NAME OF SECOND JOINT INVENTOR (IF ANY) Pei-Lin MAO	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country) Hong Kong	COUNTRY OF CITIZENSHIP Canada	
POST OFFICE ADDRESS 12 Sandy Bay Road, Hongkong		

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF THIRD JOINT INVENTOR, IF ANY Yuan Hong YU	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country) Singapore	COUNTRY OF CITIZENSHIP Malaysia	
POST OFFICE ADDRESS Blk 138 Bishan St 12 #06-456, Singapore 570138		
FULL NAME OF FOURTH JOINT INVENTOR, IF ANY Yuanzhil LAO	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country)	COUNTRY OF CITIZENSHIP China	
POST OFFICE ADDRESS		
FULL NAME OF FIFTH JOINT INVENTOR, IF ANY Chunyan ZHANG	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country) Singapore	COUNTRY OF CITIZENSHIP China	
POST OFFICE ADDRESS 134B West Coast Way, Singapore 127064		
FULL NAME OF SIXTH JOINT INVENTOR, IF ANY Meieng Hui KWAN	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country) Singapore	COUNTRY OF CITIZENSHIP Singapore	
POST OFFICE ADDRESS 32 Eng Kong Garden, Singapore 599248		

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**UNITED STATES OF AMERICA  
COMBINED DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION**

ORGS FILE NO.  
P/2778-63

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name; that I verify below that I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**Method and System for Cell and/or Nucleic Acid Molecules Isolation**

the specification of which is attached hereto, unless the following box is checked:

was filed on 18 May 2005 as United States patent Application Number or PCT International patent application number \_\_\_\_\_ and was amended on \_\_\_\_\_ (if any).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information known to be material to patentability in accordance with Title 37, Code of Federal Regulations, '1.56. I hereby claim priority benefits under Title 35, United States Code, '119 of any foreign application(s) for patent or Inventor's certificate or United States provisional application(s) listed below and have also identified below any foreign application for patent or Inventor's certificate having a filing date before that of the application on which priority is claimed:

**Prior Foreign or Provisional Application(s)**

COUNTRY	APPLICATION NUMBER	DATE OF FILING (day month year)	PRIORITY CLAIMED UNDER 35 U.S.C. 119
			YES <input type="checkbox"/> NO <input type="checkbox"/>
			YES <input type="checkbox"/> NO <input type="checkbox"/>
			YES <input type="checkbox"/> NO <input type="checkbox"/>

I hereby claim the benefit under Title 35, United States Code, '120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, '119, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, '1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

UNITED STATES APPLICATION NUMBER	DATE OF FILING (day month year)	STATUS (patented, pending, abandoned)

I hereby appoint customer no. 2352 OSTROLENK, FABER, GERB & SOFFEN, LLP, and the members of the firm, Samuel H. Weintraub - Reg. No. 18,510; Robert C. Faber - Reg. No. 24,222; Max Moskowitz - Reg. No. 30,276; James A. Binder - Reg. No. 30,173; William O. Gray, III - Reg. No. 30,944; Louis C. Dufraim - Reg. No. 30,625, and Douglas A. Miro - Reg. No. 31,643, as attorneys with full power of substitution and revocation to prosecute this application, to transact all business in the Patent & Trademark Office connected therewith and to receive all correspondence.

**SEND CORRESPONDENCE TO:** OSTROLENK, FABER, GERB & SOFFEN, LLP  
1180 AVENUE OF THE AMERICAS  
NEW YORK, NEW YORK 10036-4403  
CUSTOMER NO. 2352  
**DIRECT TELEPHONE CALLS TO:**  
(212) 382-0700

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made within the meaning of the term "false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF SOLE OR FIRST INVENTOR Guolin XU	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country) Singapore	COUNTRY OF CITIZENSHIP China	
POST OFFICE ADDRESS Blk 436 Woodlands St 41 #12-398, Singapore 730436		
FULL NAME OF SECOND JOINT INVENTOR (if any) Pei-Lin MAO	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country) Hong Kong	COUNTRY OF CITIZENSHIP Canada	
POST OFFICE ADDRESS 12 Sandy Bay Road, Hongkong		

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FULL NAME OF THIRD JOINT INVENTOR, IF ANY Yuan Hong YU	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country) Singapore	COUNTRY OF CITIZENSHIP Malaysia	
POST OFFICE ADDRESS Blk 138 Bishan St 12 #06-456, Singapore 570138		
FULL NAME OF FOURTH JOINT INVENTOR, IF ANY Yuanzhi LAO	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country)	COUNTRY OF CITIZENSHIP China	
POST OFFICE ADDRESS		
FULL NAME OF FIFTH JOINT INVENTOR, IF ANY Chunyang ZHANG	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country) Singapore	COUNTRY OF CITIZENSHIP China	
POST OFFICE ADDRESS 134B West Coast Way, Singapore 127064		
FULL NAME OF SIXTH JOINT INVENTOR, IF ANY Meng Hui KWAN	INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country) Singapore	COUNTRY OF CITIZENSHIP Singapore	
POST OFFICE ADDRESS 32 Eng Kong Garden, Singapore 599248		

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## ATTACHMENT 2

P/2778-63

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Guolin XU et al

Serial No.: 10/535,334

Group Art Unit: -

Int'l. Appln. No.: PCT/SG03/00261

Examiner: -

Int'l. Filing Date: 10 November 12, 2003

For: METHOD AND SYSTEM FOR CELL AND/OR NUCLEIC ACID MOLECULES  
ISOLATION

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

SUPPLEMENTARY DECLARATION OF WINNIE CHUA  
IN SUPPORT OF PETITION UNDER 37 C.F.R. 1.47(a)

Sir:

I, Winnie Chua, DECLARE as follows:

1. I am the same individual who provided a previous declaration in this matter, dated March 21, 2006 which, I understand, was filed to support a Petition (the "Petition") submitted to the United States Patent and Trademark Office requesting acceptance of the above-identified application for examination, despite the refusal of one of the named co-inventors, Dennis Lee Polla, to execute the application.
2. I understand from outside patent counsel that the United States Patent and Trademark Office dismissed the Petition, without prejudice, due to the fact that the supporting documentation provided with the Petition did not include, *inter alia*, a showing that the complete application was delivered to Dennis Lee Polla at his last known address, and that he thereafter refused to execute the application papers. This declaration is, therefore, being submitted for the purpose of providing the evidence required in order for the Patent Office to reconsider the Petition.
3. On June 22, 2006, in my capacity as Manager of Exploit Technologies Pte, Ltd., which, as noted in ¶1 of my prior declaration, is the intellectual property management office of the Agency of Science, Technology and Research (ASTAR), the Assignee of the present application, using DHL Courier service, I forwarded a complete set of the

application papers to Dennis Lee Polla at his last known address, i.e., 2830 Hillscourte South, Roseville, MN 55113. A copy of my transmittal letter is included as Exhibit A to this declaration. As stated in the letter, the materials forwarded to Dennis Lee Polla included two copies of the application together with two copies of a Declaration and two copies of an Assignment form. Dennis Lee Polla was requested to execute the Declaration and the Assignment and return them to me for submission to our U.S. counsel. The remaining materials were meant to be maintained by Dennis Lee Polla for his records.

4. Attached as Exhibit B to this declaration is a copy of the courier status report obtained from DHL's internet website which evidences the delivery of my June 22, 2006 letter to Dennis Lee Polla and the accompanying documents on June 26, 2006.
5. On July 24, 2006, I received a letter from Prof. Polla acknowledging receipt of my June 22, 2006 letter and the accompanying materials. Attached Exhibit C is a copy of Prof. Polla's letter. In his letter, Prof. Polla requested a copy of the most recently amended claims filed with the USPTO.
6. I responded to Prof. Polla's July 12, 2006 letter on July 25, 2006 (attached Exhibit D). Accompanying my letter was a copy of the application as it was submitted to the U.S. Patent Office. In my letter, I also requested Prof. Polla to execute and return the documents which accompanied my original letter of June 22 (Exhibit A) within one week of receipt.
7. Exhibit D and the accompanying documents were sent by courier. Attached Exhibit E is a copy of the courier status report obtained from DHL's internet website which evidences the delivery of my July 25, 2006 letter and the accompanying documents to Prof. Polla on July 28, 2006.
8. In addition to the set of documents I sent to Prof. Polla by courier on July 26, 2006, I also sent a duplicate set of the materials described above to him via Registered Mail. This was sent on the same date as the Courier package. A copy of the postal receipt evidencing transmittal of the materials by such registered mail is attached to this Declaration as Exhibit F.
9. Despite my request that Prof. Polla return the executed documents by courier, to date, I have not received the executed documents, nor have I been contacted in any manner by Prof. Polla with an explanation of why he has not, or will not execute the documents.
10. I further declare that all statements made herein are made of my own knowledge and are true, except for those statements made on information and belief, which are believed to be true, and further, that these statements are made with the knowledge that willful false statements

and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this declaration and any United States patent issuing therefrom.

Signature: WMY18-CWAF

Date: 17 AUGUST 2006

## EXHIBIT A



Exploit  
Technologies

A\*STAR  
(Exploit Technologies Pte Ltd)  
Co. Reg. No. 188931870

30 Biopolis Street  
#09-02 Matrix  
Singapore 138671  
T +65 6478 8420 F +65 6873 7192  
www.a-star.edu.sg  
www.exploit-tech.com

Via Courier

22 June 2006

Dennis Lee Polla  
2830 Hillsbourne South.  
Roseville,  
Minnesota 55113  
United States of America

**ORIGINAL**

Dear Mr Polla,

**RE: US Application No: 10/535,334**  
**Entitled: METHOD AND SYSTEM FOR CELL AND/OR NUCLEIC ACID**  
**MOLECULES ISOLATION**  
**Our File Ref: IBM/P/1350/2588/US**

We refer to the subject patent application and our emails of 25 Aug 2005, 15 September 2005 and 14 October 2005.

As you may recall that we have tried contacting you via emails to have you execute the Declaration and Assignment, we do not appear to have heard from you. Thereafter, to maintain this patent application alive, we have filed a Petition for non-signing Inventor.

Currently, as part of the reconsideration by the USPTO, we write to you via courier in hope that you receive this letter and following papers –

1. Two copies of the subject patent application (for your records)
2. Two copies of the declaration to be executed by your good self (original of executed copy to be returned to Exploit Technologies Pte Ltd; the other copy for your records)
3. Two copies of the assignment to be executed by your good self (original of executed copy to be returned to Exploit Technologies Pte Ltd; the other copy for your records)

Please date and sign items (2) and (3) where required and forward these executed papers by courier directly to Exploit Technologies Pte Ltd, which is the commercialization arm of Agency for Science, Technology and Research being the assignee of the subject patent application within one week of receipt from the date of this letter. Exploit Technologies Pte Ltd's address is as appended:

Exploit Technologies Pte Ltd  
30 Biopolis Street  
#09-02 Matrix  
Singapore 138671  
T +65 6478 8420 F +65 6873 7192



Exploit  
Technologies

22 June 2006

Page 2 of 2

Once you have received this letter enclosing items (1)-(3), please acknowledge safe receipt of this letter and the enclosures immediately via email ([Winnie@exploit-tech.com](mailto:Winnie@exploit-tech.com) or [Jacqueline@exploit-tech.com](mailto:Jacqueline@exploit-tech.com)) or via facsimile (+65 6873 7192) and that you will execute these documents and return to Exploit Technologies Pte Ltd the executed documents.

A confirmation copy of this letter and enclosures would also reach you via registered mail.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'CRM'.

Winnie Chua  
Manager  
Intellectual Property Management Division  
Biomedical Sciences Group  
Exploit Technologies Pte Ltd  
DID: (65) 6478 8473 Fax: (65) 6873 7192  
Email: [winnie@exploit-tech.com](mailto:winnie@exploit-tech.com)

Encl.: as specified

## EXHIBIT B

DHL | Singapore | Tracking

Page 1 of 1

The screenshot shows the DHL Singapore tracking page. At the top, there's a navigation bar with links like "eShipping", "eLogistics", "eInformation", "eExpress", "Careers", "About Us", "The Group", "Investor Relations", "Contact Us", "Site Map", "Settings", and "Help". Below the navigation, a banner says "Tracking Good Morning". On the left, a sidebar lists various tracking-related links such as "Track your Shipment", "DHL Air Waybill", "Flight Status", "Flight History", "DHL Web Shipping", "Delivery Status", "Tracking", "DHL Samples", "Product Services", "DHL Interactive Tools", "Update Information Service", and "Remote Area Service". The main content area displays tracking results for Air Waybill 3291617556. It shows the shipment was signed for by DENNIS L. on June 28, 2006, at 11:03 AM. The detailed report table lists the following checkpoints:

Date	Time	Location Service Area	Checkpoint Details
June 22, 2006	16:45	Singapore - Singapore	Shipment picked up
June 22, 2006	20:53	Singapore - Singapore	Departed from DHL facility in Singapore - Singapore
June 22, 2006	20:59	Singapore - Hub - Singapore	Arrived at DHL facility in Singapore - Hub - Singapore
June 23, 2006	03:32	Singapore - Hub - Singapore	Departed from DHL facility in Singapore - Hub - Singapore
June 23, 2006	11:22	Los Angeles Gateway, CA - USA	Arrived at DHL facility in Los Angeles Gateway - USA
June 23, 2006	16:46	Los Angeles Gateway, CA - USA	Departed from DHL facility in Los Angeles Gateway - USA
June 26, 2006	06:13	Minneapolis, MN - USA	Scheduled for delivery
June 26, 2006	06:15	Minneapolis, MN - USA	With delivery courier
June 26, 2006	11:03	Minneapolis, MN - USA	Shipment delivered

At the bottom of the page, there's a footer with the text "©2006 DHL International GmbH. All Rights Reserved." and the DHL logo.

## EXHIBIT C

12 July 2006

Ms. Winnie Chua  
Intellectual Property Management Division  
Biomedical Sciences Group  
Exploit Technologies Pte Ltd.  
30 Biopolis Street  
#09-02 Matrix  
Singapore 138671

Re: US Application No: 10/535,334

Dear Ms. Chua:

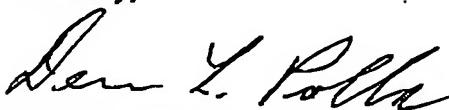
This is to acknowledge your letter dated 22 June 2006 which was signed for by my wife on 14 July 2006. I also note you have included an international patent application dated 3 June 2004.

Your letter cites emails of 25 Aug 2005, 15 Sep 2005, and 14 Oct 2005. Please know email is not commonly recognized as reliable for legal matters in the United States. I have not maintained all of my email accounts particularly those used when I lived in Singapore.

In order to move forward with your request dated 22 June 2006, I would like to receive a copy of the U.S. patent application filed on 18 May 2005. Since this filing is now over two years old, I would also like to receive a copy of the most recently amended claims filed with the USPTO, if any.

Thank you.

Sincerely,



Professor Dennis L. Polla  
2830 Hillscourte South  
Roseville, Minnesota 55113-2175  
1-612-625-4873



## EXHIBIT D



Exploit  
Technologies

25 July 2006

Prof Dennis Lee Polla  
2830 Hillscourte South.  
Roseville,  
Minnesota 55113  
United States of America

Dear Prof Polla,

**RE: US Application No: 10/535,334  
Entitled: METHOD AND SYSTEM FOR CELL AND/OR NUCLEIC ACID  
MOLECULES ISOLATION  
Our File Ref: IBN/P/1350/2588/US**

We refer to your letter of 12 July 2006.

As requested in your letter, we would inform that the US patent application filed on 18 May 2005 is exactly based on the PCT patent application which was forwarded to you in our letter of 22 June 2006 except the attached amendments made at the time of filing of the US patent application. The specification and amendments are attached as part of this letter.

Please date and sign the documents in our letter of 22 June 2006 where required and forward these executed papers by courier directly to Exploit Technologies Pte Ltd, which is the commercialization arm of Agency for Science, Technology and Research being the assignee of the subject patent application within one week of receipt from the date of this letter. Exploit Technologies Pte Ltd's address is as appended –

Exploit Technologies Pte Ltd  
30 Biopolis Street  
#09-02 Matrix  
Singapore 138671  
T +65 6478 8420 F +65 6873 7192

**A\*STAR**  
(Exploit Technologies Pte Ltd)  
Co. Reg. No. 188503187D

30 Biopolis Street  
#09-02 Matrix  
Singapore 138671  
T +65 6478 8420 F +65 6873 7192  
www.a-star.edu.sg  
www.exploit-tech.com

**Via Courier**

**ORIGINAL**



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Technologies

25 July 2006

Page 2 of 2

Once you have received this letter and the enclosures, please acknowledge safe receipt of this letter and the enclosures immediately via email ([Winnie@exploit-tech.com](mailto:Winnie@exploit-tech.com) or [Jacqueline@exploit-tech.com](mailto:Jacqueline@exploit-tech.com)) or via facsimile (+65 6873 7192) and that you will execute these documents and return to Exploit Technologies Pte Ltd the executed documents.

A confirmation copy of this letter and enclosures would also reach you via registered mail.

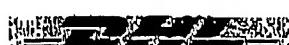
Sincerely yours,

A handwritten signature consisting of the letters 'Cm'.

Winnie Chua  
Manager  
Intellectual Property Management Division  
Biomedical Sciences Group  
Exploit Technologies Pte Ltd  
DID: (65) 6478 8473 Fax: (65) 6873 7192  
Email: [winnie@exploit-tech.com](mailto:winnie@exploit-tech.com)

*Encl.: as specified*

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These are the results of your query

Times given are local to the service area in which the shipment checkpoint is recorded.

Air Waybill Number	Origin Service Area	Destination Service Area	Status
3291617696	Singapore - Singapore	Minneapolis, MN - USA	Signed for by: DEE P Shipment delivered July 28, 2006 12:06 ✓

#### 3291617696 - Detailed Report

Date	Time	Location Service Area	Checkpoint Details
July 26, 2006	12:39	Singapore - Singapore	Shipment picked up
July 26, 2006	14:28	Singapore - Singapore	Departed from DHL facility in Singapore - Singapore
July 26, 2006	14:31	Singapore - Hub - Singapore	Arrived at DHL facility in Singapore - Hub - Singapore
July 26, 2006	14:53	Singapore - Hub - Singapore	Departed from DHL facility in Singapore - Hub - Singapore
July 26, 2006	18:47	Los Angeles Gateway, CA - USA	Arrived at DHL facility in Los Angeles Gateway - USA
July 27, 2006	19:43	Los Angeles Gateway, CA - USA	Departed from DHL facility in Los Angeles Gateway - USA
July 28, 2006	01:54	Wilmington - Clinton Field, OH - USA	Arrived at DHL facility in Wilmington - Clinton Field - USA
July 28, 2006	07:52	Minneapolis, MN - USA	Scheduled for delivery
July 28, 2006	07:55	Minneapolis, MN - USA	With delivery courier
July 28, 2006	12:06	Minneapolis, MN - USA	Shipment delivered

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## EXHIBIT F



FTPL

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DR ZHENG ZHENG  
INTELLIGENT MICRO DEVICES  
11 SCIENCE PARK ROAD  
SINGAPORE 117685

	AIR	SUR	AR	EXP
BY*				

RA No: RR052058315SG

Date : 26 Jul 2006

RA TSN Ref: 2435/207/C011

Insured Value (\$):

Insured Fee (\$):

## 2. Name &amp; Address of Second Addressee

Dr MARK J Nuelle  
Birch, Stewart, Kdasch & Birch, LLP  
8110 Gatehouse Rd  
Suite 100 EAST  
Falls Church, VA 22042-1248 (USA)

	AIR	SUR	AR	EXP
BY*				

RA No: RR052006057SG

Date : 26 Jul 2006

RA TSN Ref: 2435/207/C0113

Insured Value (\$):

Insured Fee (\$):

## 3. Name &amp; Address of Third Addressee

Prof Dennis Lee Pollia  
2830 HillsCourt South  
Roseville  
Minnesota 55113 - (USA)

	AIR	SUR	AR	EXP
BY*	/			

RA No: RR052006065SG

Date : 26 Jul 2006

RA TSN Ref: 2435/207/C0114

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Insured Fee (\$):

\*Tick whichever is applicable

P118

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